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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,790	08/20/2003	Thomas Poslinski	SONY-50T5519.01	8031

7590 12/04/2008
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EXAMINER

HUERTA, ALEXANDER Q

ART UNIT	PAPER NUMBER
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2427

MAIL DATE	DELIVERY MODE
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12/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/645,790	Applicant(s) POSLENSKI, THOMAS	
	Examiner ALEXANDER Q. HUERTA	Art Unit 2427	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 24-46 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 39, 42-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Rodriguez et al. (US Pat. Pub. **2002/0168178**), herein referenced as Rodriguez.

Regarding **claim 39**, Rodriguez discloses “an electronic device for simultaneously caching content data via multiple channels, the electronic device including a plurality of tuners (Fig. 3A El. 354, 358), a caching device coupled to the plurality of tuners (Fig. 3A El. 376, 378), a processor (Fig. 3A El. 344), and a memory (Fig. 3A El. 349) which comprises a set of instructions, when executed by the processor, executes a method comprising: selecting a first set of channels in response to viewing requests; assigning a first set of tuners for the first set of channels; selecting a second set of channels based on a preconfigured list of favorite channels; assigning a second set of tuners for the second set of channels ([0107]-[0118], [0137], Figs. 12A-C,

i.e. Rodriguez teaches the prioritization of tuner using controlling rules to establish precedence. A favorite channels list may also be used as input for the controlling rules. For example, when a channel change is made to a favorite channel, the system checks whether the previous channel has priority and if it does not then the system will de-allocate the tuner and assign it the favorite channel) and simultaneously caching content data using the caching device from the first set of channels and the second set of channels" ([0049], [0099], [0130]-[0133]).

Regarding **claim 42**, Rodriguez discloses that "the content data from the first set of channels is recorded" ([0131]-[0133], i.e. the first and second channels are buffered).

Regarding **claim 43**, Rodriguez discloses "a display unit for displaying the content data from the first set of channels in a main screen of the display" ([0099], [0131]-[0133], Fig. 4, i.e. tuned channels are displayed on the TV).

Regarding **claim 44**, Rodriguez discloses "altering a makeup of the first set of channels and the second set of channels in response to a channel change request for the main screen" ([0108]-[0118], [0121], [0131]-[0133], i.e. determination is made as to whether or not the selected channel takes precedence and if it should de-allocate resources from a previous channel and allocate it to the current channel).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 2427

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24-28, 30-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez in view of Marsh (US Pat. Pub. **2004/0001081**), and in further view of Florence (US Pat. Pub. **2002/0188948**), herein referenced Marsh, and Florence, respectively.

Regarding **claim 24**, Rodriguez discloses "a method for simultaneously caching content data via multiple channels in an electronic device, comprising: in response to a user specifically selecting a first channel to watch, allocating the first channel to a tuner; ([0049], [0085], [0130]-[0133], Figs. 3A, 4);

"accessing prioritization data specifying ... a list of favorite channels associated with the electronic device;... selecting a plurality of favorite channels from the list of favorite channels based on the prioritization data and a number of spare tuners; ... assigning the plurality of favorite channels to the number of spare tuners ([0107]-[0118], [0137], Figs. 12A-C, i.e. Rodriguez teaches that the favorite channel list and available tuners may be used as input for the controlling rules to make decisions as to the priority of buffering and tuning resources); simultaneously caching in a memory content data from the first channel and from the plurality of favorite channels" ([0049], [0099], [0130]-[0133]).

Rodriguez fails to explicitly the prioritization of a favorite channel list and automatically selecting and automatically assigning a plurality of favorite channels.

Marsh discloses the prioritization of the favorite channel list ([0160], i.e. the favorite channel list is ranked with the best favorite on top, then second best, and so

Art Unit: 2427

on). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of prioritization of a favorite channel list as taught by Marsh, to improve the channel buffering and display management system of Rodriguez for the predictable result of enabling the user additionally sort and order their favorite channel list based on a priority ranking.

However, the combination of Rodriguez and Marsh still fail to explicitly disclose automatically selecting and automatically assigning a plurality of favorite channels.

Florence discloses automatically selecting and assigning a plurality of favorite channels (*Abstract*, [0021], i.e. Florence teaches the automatic generation and storage of favorite channels based on viewing habits. The system automatically selects channels and assigns them to the favorite channel list). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of automatically selecting and assigning favorite channels as taught by Florence, to improve the channel buffering and display management system of Rodriguez for the predictable result of providing the user the convenience automatically selecting and viewing channels versus having to manually input and select favorite channels to view.

Regarding **claim 25**, Rodriguez discloses that "the electronic device comprises a set top box" ([0004], Figs. 1A&B, 3A).

Regarding **claim 26**, Rodriguez discloses that the content data comprises video data and audio data" ([0026], [0032], Fig. 1A&B).

Regarding **claim 27**, Rodriguez discloses that "a number of the plurality of favorite channels equals the number of spare tuners" ([0107]-[0118], [0130]-[0133],

Art Unit: 2427

[0137], i.e. Rodriguez teaches that a favorite channel list may be used to establish a prioritization to allocate a tuner to a favorite channel).

Regarding **claim 28**, Rodriguez discloses “displaying the content data from the first channel on a screen coupled to the electronic device” ([0097], [0130], Figs. 3A, 12A, St. 1201).

Regarding **claim 30**, Rodriguez discloses “receiving a command signal for switching from the first channel to a channel of the list of favorite channels which is not currently assigned to a tuner; and de-allocating from the memory content data from the first channel if the first channel is not in the list of favorite channels” ([0107]-[0118], [0130]-[0133], [0137], i.e. Rodriguez teaches that a favorite channel list may be used to establish a prioritization. For instance, the system may de-allocate a tuner in order to tune a channel that has precedence such as a favorite channel).

Regarding **claim 31**, Rodriguez discloses “receiving a command signal for switching from the first channel to another channel, wherein the first channel is in the list of favorite channels; and maintaining content data from the first channel in the memory” ([0107]-[0118], [0130]-[0133], [0137]).

Regarding **claim 32**, Rodriguez discloses “in response to a first tuner becoming a spare tuner, selecting a second channel ... from the list of favorite channels that are not currently being cached; and allocating the second channel to the first tuner and caching content data for the second channel” ([0107]-[0118], [0130]-[0133], [0137]).

However, Rodriguez fails to explicitly disclose the prioritization of the favorite channel list.

Marsh discloses the prioritization of the favorite channel list ([0160], i.e. the favorite channel list is ranked with the best favorite on top, then second best, and so on). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of prioritization of a favorite channel list as taught by Marsh, to improve the channel buffering and display management system of Rodriguez for the predictable result of enabling the user additionally sort and order their favorite channel list based on a priority ranking.

Regarding **claim 33**, Rodriguez discloses receiving a request to cache content data for a second channel whose content data is not being cached; selecting a third channel ... from the list of favorite channels that are currently being cached; de-allocating the third channel from its assigned tuner and allocating the assigned tuner to the second channel; and caching content data from the second channel" ([0107]-[0118], [0130]-[0133], [0137], Fig. 12A-C, i.e. Rodriguez teaches of allocating and prioritizing tuners using controlling rules that give precedence to favorite channels. For instance, when tuning to a new channel, the system checks whether or not the new channel have precedence over the currently tuned channels, and if so then the system will de-allocate a tuner to tune the new channel).

However, Rodriguez fails to explicitly disclose the prioritization of the favorite channel list.

Marsh discloses the prioritization of the favorite channel list ([0160], i.e. the favorite channel list is ranked with the best favorite on top, then second best, and so on). Thus, it would have been obvious to one of ordinary skill in the art to apply the

Art Unit: 2427

technique of prioritization of a favorite channel list as taught by Marsh, to improve the channel buffering and display management system of Rodriguez for the predictable result of enabling the user additionally sort and order their favorite channel list based on a priority ranking.

Regarding **claim 34**, Rodriguez discloses “an electronic device for simultaneously caching content data via multiple channels, the electronic device including a processor (Fig. 3A El. 344) and a memory (Fig. 3A El. 349) which comprises a set of instructions, when executed by the processor, executes a method comprising: in response to a user specifically selecting a first channel to watch, allocating the first channel to a tuner” ([0049], [0085], [0130]-[0133], Figs. 3A, 4);

“accessing prioritization data specifying ... a list of favorite channels associated with the electronic device; ... selecting a plurality of favorite channels from the list of favorite channels based on the prioritization data and a number of spare tuners; ...assigning the plurality of favorite channels to the number of spare tuners ([0107]-[0118], [0137], Figs. 12A-C, i.e. Rodriguez teaches that the favorite channel list and available tuners may be used as input for the controlling rules to make decisions as to the priority of buffering and tuning resources); and simultaneously caching in the memory content data from the first channel and from the plurality of favorite channels” ([0049], [0099], [0130]-[0133]).

Rodriguez fails to explicitly the prioritization of a favorite channel list and automatically selecting and automatically assigning a plurality of favorite channels.

Marsh discloses the prioritization of the favorite channel list ([0160], i.e. the favorite channel list is ranked with the best favorite on top, then second best, and so on). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of prioritization of a favorite channel list as taught by Marsh, to improve the channel buffering and display management system of Rodriguez for the predictable result of enabling the user additionally sort and order their favorite channel list based on a priority ranking.

However, the combination of Rodriguez and Marsh still fail to explicitly disclose automatically selecting and automatically assigning a plurality of favorite channels.

Florence discloses automatically selecting and assigning a plurality of favorite channels (*Abstract*, [0021], i.e. Florence teaches the automatic generation and storage of favorite channels based on viewing habits. The system automatically selects channels and assigns them to the favorite channel list). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of automatically selecting and assigning favorite channels as taught by Florence, to improve the channel buffering and display management system of Rodriguez for the predictable result of providing the user the convenience automatically selecting and viewing channels versus having to manually input and select favorite channels to view.

Regarding **claims 35-38**, claims 35-38 are interpreted and thus rejected for the reasons set forth above in the rejection of claims 30-33. Claims 30-33 describe a method for simultaneously caching content data via multiple channels and claims 35-38

Art Unit: 2427

describes an electronic device for implementing the method. Thus, claims 35-38 are rejected.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez in view of Marsh, Florence, and in further view of Ahn et al. (US Pat. Pub. **2003/0030755**), herein referenced as Ahn.

Regarding **claim 29**, Rodriguez fails to explicitly disclose “displaying content data from the first channel on a screen coupled to the electronic device in a picture in picture format”

Ahn discloses “displaying content data from the first channel on a screen coupled to the electronic device in a picture in picture format” (*Abstract*, [0026], i.e. Ahn discloses providing picture-in-picture using multiple tuners). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of providing picture-in-picture as taught by Ahn, to improve the channel buffering and display management system of Rodriguez for the predictable result of enabling the user to simultaneously watch and record two separate programs.

Claims 40-41, 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez in view of Marsh.

Regarding **claim 40**, Rodriguez fails to explicitly disclose that “channels in the preconfigured list of favorite channels are ordered based on prioritization data”.

Marsh discloses the prioritization of the favorite channel list ([0160], i.e. the favorite channel list is ranked with the best favorite on top, then second best, and so on). Thus, it would have been obvious to one of ordinary skill in the art to apply the

Art Unit: 2427

technique of prioritization of a favorite channel list as taught by Marsh, to improve the channel buffering and display management system of Rodriguez for the predictable result of enabling the user additionally sort and order their favorite channel list based on a priority ranking.

Regarding **claim 41**, Rodriguez discloses "a remote data entry device for communicating the list of favorite channels and prioritization data" ([0078], [0136]-[0137], [0157], Fig. 18, i.e. establishes favorite channels during configuration session and prioritizes channels to buffer).

Regarding **claim 46**, Rodriguez discloses "altering a makeup of the second set of channels in response to a change in prioritization data" ([0108]-[0118], [0121], [0131]-[0133], [0157], Figs. 12A-C, 18, i.e. determination is made as to whether or not the selected channel takes precedence and if it should de-allocate resources from a previous channel and allocate it to the current channel that may be decided by the user).

Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez in view of Ahn.

Regarding **claim 45**, Rodriguez fails to explicitly disclose that "the display unit is operable to display the content data from the first set of channels in a sub-screen of the display unit".

Ahn discloses that "the display unit is operable to display the content data from the first set of channels in a sub-screen of the display unit" (*Abstract*, [0026], i.e. Ahn discloses providing picture-in-picture using multiple tuners). Thus, it would have been

Art Unit: 2427

obvious to one of ordinary skill in the art to apply the technique of providing picture-in-picture as taught by Ahn, to improve the channel buffering and display management system of Rodriguez for the predictable result of enabling the user to simultaneously watch and record two separate programs.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEXANDER Q. HUERTA whose telephone number is (571) 270-3582. The examiner can normally be reached on M-F(Alternate Fridays Off) 7:30-5:00 EST.

Art Unit: 2427

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alexander Q Huerta
Examiner
Art Unit 2427

November 26, 2008

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2427